

**Readopt with Amendments Agr 3800, effective 03/17/04 (Document #8070) to read as follows:****CHAPTER Agr 3800 INVASIVE SPECIES**

Statutory Authority: RSA 430:55

**PART Agr 3801 INVASIVE SPECIES**Agr 3801.01 Purpose. These rules have been established to:

- (a) Prevent and control the spread of invasive plant, insect, and fungal species;
- (b) Minimize the adverse environmental and economic effects invasive species cause to agriculture, forests, wetlands, wildlife, and other natural resources of the state; and
- (c) Protect the public from potential health problems attributed to certain invasive species.

Agr 3801.02 Definitions.

(a) "Alien species " means "alien species" as defined in RSA 430:52 I, namely, "with respect to a particular ecosystem, any species, including its seeds, eggs, spores, or other biological material capable of propagating or reproducing that species, that is not native to that ecosystem."

(b) "Commissioner" means "commissioner" as defined in RSA 430:52 II, namely "the commissioner of agriculture, markets, and food."

(c) "Control" means "control" as defined in RSA 430:52 IV, namely, "as appropriate, eradicating, suppressing, reducing, or managing invasive species populations, preventing spread of invasive species from areas where they are present, and taking steps such as restoration of native species and habitats to reduce the effects of invasive species and to prevent further invasions."

(d) "Department" means the department of agriculture, markets, and food.

(e) "Fungi" means "fungi" as defined in RSA 430:52 V, namely, "all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals."

(f) "Insect" means "insect" as defined in RSA 430:52 VI, namely, "any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising 6-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than 6 legs, as, for example, spiders, mites, ticks, centipedes, and wood lice."

(g) "Invasive species" means "invasive species" as defined in RSA 430:52 VII, namely, "an alien species whose introduction causes or is likely to cause economic or environmental harm or harm to human health."

(h) "Invasive species committee" means the invasive species committee as established in RSA 430:54 to advise the commissioner on matter relating to invasive plant, insect and fungal species in the state for the commissioner to prepare and publish annually the New Hampshire prohibited invasive species list and the New Hampshire restricted invasive species list.

(i) "Native species" means "native species" as defined in RSA 430:52 VIII, namely, "with respect to a particular ecosystem, a species that, other than as a result of an introduction, historically occurred or currently occurs in that ecosystem."

(j) "Outreach" means the temporary use of an invasive species for the purpose of conducting a workshop or symposium.

(k) "Person" means "person" as defined in RSA 430:52 IX, namely, "any individual, governmental entity, firm, partnership, corporation, company, society, association, or any organized group of persons whether incorporated or not, and every officer, agent, or employee thereof."

(l) "Propagation" means purposefully increasing the population of a species by means of manipulating its sexual and/or asexual reproduction processes.

(m) "Propagule" means any living part of a plant or fungus such as stem or root segments, seeds, spores, buds, nodes, corms or bulbets that can become detached and form a new organism.

(n) "Processed products" means any commodity derived from a plant, insect or fungi species that has undergone treatment(s) that has rendered the commodity non-living and non viable such as jellies, veneers, roof thatch.

**PART 3802 NH PROHIBITED INVASIVE SPECIES**Agr 3802.01 NH Prohibited Invasive Species.

(a) The following species, listed by scientific name in the New Hampshire prohibited invasive species list in Table 3800.1, shall be prohibited:

Table 3800.1 New Hampshire Prohibited Invasive Species List

<u>Scientific Name</u>	<u>Common Name</u>
<b>Plants</b>	
<i>Acer platanoides</i>	Norway maple
<i>Ailanthus altissima</i>	tree of heaven
<i>Alliaria petiolata</i>	garlic mustard
<i>Berberis thunbergii</i>	Japanese barberry
<i>Berberis vulgaris</i>	European barberry
<i>Celastrus orbiculatus</i>	Oriental bittersweet
<i>Centaurea biebersteinii</i>	spotted knapweed
<i>Cynanchum nigrum</i>	black swallow-wort
<i>Cynanchum rossicum</i>	pale swallow-wort
<i>Elaeagnus umbellata</i>	autumn olive
<i>Euonymus alatus</i>	burning bush
<i>Heracleum mantegazzianum</i>	giant hogweed
<i>Hesperis matronalis</i>	dame's rocket
<i>Iris pseudacorus</i>	water-flag
<i>Lepidium latifolium</i>	perennial pepperweed
<i>Ligustrum obtusifolium</i>	blunt-leaved privet
<i>Lonicera bella</i>	showy bush honeysuckle
<i>Lonicera japonica</i>	Japanese honeysuckle
<i>Lonicera morrowii</i>	Morrow's honeysuckle
<i>Lonicera tatarica</i>	Tatarian honeysuckle
<i>Microstegium vimineum</i>	Japanese stilt grass
<i>Polygonum cuspidatum</i>	Japanese knotweed
<i>Polygonum perfoliatum</i>	mile-a-minute vine
<i>Reynoutria × bohemica</i>	bohemia knotweed
<i>Rhamnus cathartica</i>	common buckthorn
<i>Rhamnus frangula</i>	glossy buckthorn
<i>Rosa multiflora</i>	multiflora rose
<b>Insects</b>	
<i>Acarapis woodi</i>	honeybee tracheal mite
<i>Adelges tsugae</i>	hemlock woolly adelgid
<i>Aeolesthes sarta</i>	city longhorn beetle
<i>Agrilus planipennis</i>	emerald ash borer
<i>Anoplophora glabripennis</i>	Asian longhorned beetle
<i>Callidiellum rufipenne</i>	cedar longhorned beetle
<i>Dendrolimus sibiricus</i>	Siberian silk moth
<i>Hylurgus ligniperda</i>	redhaired bark beetle
<i>Ips typographus</i>	European spruce bark beetle
<i>Lymantria dispar</i>	Asian gypsy moth
<i>Popillia japonica</i>	Japanese beetle
<i>Pyrrhalta viburni</i>	viburnum leaf beetle
<i>Rhizotrogus majalis</i>	European chafer
<i>Symantia monacha</i>	nun moth
<i>Tetropium fuscum</i>	brown spruce longhorned beetle
<i>Varroa destructor</i>	varroa mite

(b) No person shall collect, transport, import, export, move, buy, sell, distribute, propagate or transplant any living and viable portion of any plant species, which includes all of their cultivars and varieties, listed in Table 3800.1, New Hampshire prohibited invasive species list.

(c) No person shall collect, transport, import, export, move, buy, sell, distribute, propagate or release any living insect species listed in Table 3800.1, New Hampshire prohibited invasive species list.

Agr 3802.02 Exemptions.

(a) The commissioner and/or department employees, while acting in the performance of their duties, shall be exempt from the restrictions of this chapter relative to:

- (1) Collection;
- (2) Distribution;
- (3) Transportation; or
- (4) Propagation.

(b) Persons who have been granted an approved written variance from the department in accordance with Agr 3802.03 shall be exempt from the provisions of this chapter for one or more of the following activities:

- (1) Collection;
- (2) Transportation;
- (3) Cultivation;
- (4) Transplantation; or
- (5) Propagation.

(c) Persons who utilize only nonliving and nonviable prohibited invasive species shall be exempt from the restrictions on collection, transportation, sale and distribution for the following purposes:

- (1) Outreach;
- (2) Arts and crafts;
- (3) Lumber;
- (4) Firewood; or
- (5) Processed products.

(d) Persons shall be exempt from collecting and transporting living and viable prohibited invasive species for purposes of:

- (1) Maintaining a publicly-accessible herbarium, mycology or entomology collection;
- (2) Disposal;
- (3) Identification; or
- (4) Interstate transport.

(e) Persons exempt as specified in (a), (b) and (d) shall ensure that viable living parts, seeds or propagules do not escape.

Agr 3802.03 Variance Requests

(a) Any person may apply for a written variance to allow for temporary scientific use of prohibited invasive species for the collection, transportation, cultivation, transplantation or propagation of prohibited invasive species provided the species shall not be:

- (1) Sold;
- (2) Distributed; or
- (3) Allowed to escape.

(b) The approved use of the invasive species shall not result in any of the following:

- (1) Environmental impacts;
- (2) Economic damage; or
- (3) Cause harm to human health.

(c) Applicants shall submit a completed variance request form to the department with the following information:

- (1) Applicant's name, phone number and mailing address;
- (2) Business/affiliation's name, phone number and mailing address;
- (3) Scientific name;
- (4) Common name;
- (5) Synonym(s);
- (6) Cultivar(s);
- (7) Taxonomic family;
- (8) Country or state in which species is native;
- (9) Cultural requirements;

- (10) Temperature or climatic requirements;
- (11) Sexual and/or asexual reproductive methods;
- (12) Purpose and need statement;
- (13) Quantity and type of species such as plants, seeds, propagules, mature insects, larvae, eggs, etc.;
- (14) Collection site and/or source of species material;
- (15) Project location, including a site map and a description of the habitat and adjacent land use where species will be held;
- (16) Duration of project including starting and ending dates;
- (17) Method of disposal; and
- (18) Precautionary measures taken to prevent the species escape.

(d) Applications that are incomplete shall be deemed incomplete and a notice identifying the deficiencies shall be sent to the applicant.

(e) Applications that do not meet the department rules shall be denied and a notice shall be sent to the applicant.

(f) Persons holding an approved written variance shall, within 30 days of the completion of the project, submit written notification to the department describing results of the project.

(g) The approved variance from the department shall be nontransferable.

Agr 3802.04 Disposal of Prohibited Invasive Species. Prohibited invasive species shall only be disposed of in a manner that renders them nonliving and nonviable.

#### APPENDIX

Provision of the Proposed Rule	Specific State or Federal Statute or Regulations which the Rule is Intended to Implement
Agr 3801.01-Agr 3801.02	RSA 430:51
Agr 3802.01	RSA 430:53 III
Agr 3802.02	RSA 430:55
Agr 3802.03	RSA 430:55, RSA 541-A:22, IV
Agr 3802.04	RSA 430:55